

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DARRYL E. CARTER,

Plaintiff,

-v-

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.
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USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 4/10/13

No. 11 Civ. 2517 (RA)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RONNIE ABRAMS, United States District Judge:

On April 6, 2011, Plaintiff Darryl Carter, who is proceeding *pro se*, filed a complaint appealing the decision of the Commissioner of Social Security (“Commissioner”) to deny his application for disability insurance benefits and supplemental security income. The case was referred to Magistrate Judge Henry B. Pitman on April 26, 2011. On January 22, 2013, Judge Pitman issued a Report and Recommendation (the “Report”) recommending that the Commissioner’s unopposed¹ motion for judgment on the pleadings should be granted. No party has filed objections to the Report.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by [a] magistrate judge.” 28 U.S.C. § 636(b)(1). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Adee Motor Cars, LLC v. Amato, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005). “If a party fails to make a

¹ Defendant filed its motion for judgment on the pleadings in January 2012. As of November 2012, Plaintiff had not responded to Defendant’s motion. Accordingly, on November 15, 2012, Judge Pitman issued an order giving Plaintiff until December 3, 2012 to respond to the motion. (Dkt. No. 17.) Plaintiff failed to do so.

timely objection to a report, that party waives their right to object[,] and appellate review of the district court's decision adopting the report, absent unusual circumstances, is precluded."

Iannolo v. Astrue, No. 10 Civ. 7602 (JPO)(JCF), 2012 WL 523619, at *1 (S.D.N.Y. Feb. 16, 2012) (citing United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997)).

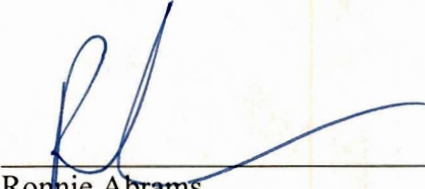
Because no objections to the Report were filed, the Court has reviewed Judge Pitman's thoughtful and well-reasoned fifty-one page report for clear error and finds that the reasoning and conclusions set forth therein are not facially erroneous. Therefore, the Court adopts the Report in its entirety.

Accordingly, it is hereby:

ORDERED that Defendant's motion for judgment on the pleadings is granted. The Clerk of Court is respectfully directed to terminate the motion located at Docket Number 14 and to close this case.

SO ORDERED.

Dated: April 10, 2013
New York, New York



Ronnie Abrams
United States District Judge